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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,225	03/10/2004	Heinz Focke	20605.012US	2971
22870 7590 02/28/2007 LAURENCE P. COLTON 1201 WEST PEACHTREE STREET, NW 14TH FLOOR ATLANTA, GA 30309-3488			EXAMINER DEWS, BROOKE J	
			ART UNIT 2182	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/28/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/797,225	Applicant(s) FOCKE ET AL.	
	Examiner Brooke J. Dews	Art Unit 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20040818; 20052111</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

Acknowledgement has been made of applicant's oath/declaration that was filed 08/18/2004.

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested:
Drive circuit and control circuit for communication system in goods packing machine has bus line connected to remote data store and incorporates main memory with microprocessor.

The abstract of the disclosure is objected to because of the legal phraseology, "means", present in the abstract. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Drawings

2. The drawings are objected to because black-boxes in Figures 1-4 should be labeled with appropriate function (i.e. blank store 17, conveyor belt 27, and filter-tipping machine 23, and so on) to better illustrate the claimed invention to the public.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "34" and "33" have both been used to designate "a bus" and the reference character "34" has been used to designate both "a bus" and "an interface".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

3. The information disclosure statement filed 08/18/2004 has the following documents that have not been considered because of not providing English translations: DE 01210280, DE 19831867, DE 19845764, DE 19914297, DE 19701323, DE 19908866.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Regarding claim 1-10, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).
5. Claim 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "and/or", "namely", "which can be", and "in particular" found in claim 1 and 9 do not make the assertions definite.
6. Claims 1-10 are rejected because functional limitations are recited in the form of intended use (for storing, for connecting...). It is unclear if the Applicant intends to include such limitations in the claims. The claim will be rejected as if those limitations are positively recited. (For instance, "to store" instead of "for storing").

For the purpose of examination, the Examiner considers the claims are positively recited.
7. Claim 1-8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. These claims are drafted as method claims, however there appears to be no evidence of steps, processes, or operations mentioned in the claims.

8. Claim 1 recites the limitation "the controller (13)" in line 4 of claim 1. There is insufficient antecedent basis for these limitations in the claim. This appears to be a typo, considering that applicant's specification labels item 13 as a "carton packer", and will be examined as if the claim reads "the controller (31)".

9. Claim 8 recites the limitation "machine codes" in line 6 of claim 8. There is insufficient antecedent basis for this limitation in the claim. Correction/clarification is necessary to all previously rejected claims.

Claim Rejections - 35 USC § 103

10. Claim 1-5, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werner Blumenstock (US Patent 6505084), hereafter Blumenstock, in view of Robert J. Kamper (US Patent 654797), hereafter Kamper.

Regarding claim 1 Blumenstock discloses a method of operating a device for controlling or monitoring a production and/or packaging installation for the production and/or packaging of cigarettes, cigars and the like—

controller (30)[**memory programmable controller S1..Sn**]--on a communication medium [**network connection 2**], namely a bus (33), the controller (13) comprising

an interface (34) [**via network connection 2**] to be connected to the communication medium [**network connection 2**]

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a main memory (36) [**memories SP1..SP**] for the storage of a control program (31) [**application program 4**]

and also means for executing the control program (31) [**via control device St1..Stn; Column 3 line 17-20**], characterized in that configuration data (40)[**working copy configuration data 5**] are stored in that, when the controller (30) [**S1..Sn**] is restarted [**switched on**], the configuration data (40)[**5**] are read out [**loaded**] and in that, by using the configuration data (40), an access to a remote memory (32) [**archive memory A via central computer R**] which can be reached via the communication medium [**network connection 2**] is made, which comprises a transfer to the controller (30) of data stored in the remote memory (32) [**via central computer R**]. [**Figure 1 and 2; Column 3 line 21-27; Column 4 line 17-26**]

However Blumenstock does not explicitly disclose that configuration data (40) are stored in a removeable memory module.

Kamper discloses storing configuration data in a removeable memory module. [abstract; column 4 line 14-18]

Blumenstock and Kamper are analogous art because they are from similar problem solving area of reconfiguration, where one computer transfers data to or from another computer which changes the functional configuration of one of the computers within the network after it has been established.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Kamper's removable storage with Blumenstocks "programmable controller", the motivation being to configure multiple servers easily and efficiently without requiring additional hardware to be incorporated into the thin server without encountering the problems of locating, connecting and securing the thin server. [**Abstract; Column 1 line 62-67**]

Claim 2 is rejected for the reasons set forth hereinabove for claim 1, and further Kamper discloses the method characterized in that the configuration data (40) comprise a unique address [**IP address**] of the controller (30) [**server 118**] on the communication medium [**via a wired or wireless connection; Column 4 line 15-16**],

and in that, when the controller (30) is restarted [**powered up**], the interface (34) [**via a wired or wireless connection**] is configured with the address [**via server configuration**]. [**Column 4 line 6-19**]

Claim 3 is rejected for the reasons set forth hereinabove for claim 2, and further Blumenstock discloses the method characterized in that in the main memory (36) [SP1..SP] of the controller (30) [memory programmable controller S1-Sn] there is stored an installation program (42) [via steps 7 and 8] which is executed when the controller (30) is restarted [after a cold start or replacement of module], in that the execution of the installation program (42) comprises an access [via memory loading; Column 3 line 58-65] to the configuration data (40), in that by using the configuration data (40) [5] an access is made to the remote memory (32) [archive memory A via central computer R] which can be reached via the communication medium [network connection 2], and in that this access comprises a transfer of the copy of the control program (31) [application program 4] stored in the remote memory (32) [via central computer R] into the main memory (36) [memories SP1..SP] of the controller (30) [memory programmable controller S1-Sn]. [Figure 1 and 2; Column 3 line 21-27; Column 4 line 17-26]

Claim 4 is rejected for the reasons set forth hereinabove for claim 3, and further Blumenstock discloses the method characterized in that, during the transfer of the copy of the control program (31) [via control device St1..Stn] into the main memory (36) [memories SP1..SP] of the controller (30) [memory programmable controller S1..Sn], a reference to calling the installation program (42) [due to an event of failure] is overwritten [not performed] by a reference to calling the control program (31) [due to actuating the machine; Claim 6 of Blumenstock]. ["installation" via steps 7 and 8 are only "called" or performed during failure/malfunction, when no malfunction/failure is present in device a reliable restart is accomplished; Column 2 line 28-44]

Claim 5 is rejected for the reasons set forth hereinabove for claim 3, and further Blumenstock discloses the method characterized in that, during the transfer of the copy of the control program (31) [via control device St1..Stn; Column 3 line 17-20] into the main memory (36) [memories SP1..SP] of the controller (30) [memory programmable controller S1..Sn], the installation program (42) in the main memory (36) is overwritten [via steps 7 and 8]. [Column 2 line 38-44 and Column 3 line 58-65]

Regarding claim 9 Blumenstock discloses a device for controlling or monitoring a production and/or packaging installation for the production or packaging of cigarettes, cigars and the like—

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controller (30) [**memory programmable controller S1..Sn**]--, comprising

a main memory (36) [**memories SP1..SP**], in which a control program (31) [**application program 4**] can be stored,

a device [**a networked automation system 1**] for executing the control program (31) [**application program 4**] and

an interface (34) [**via network connection 2**] for connection to a communication medium [**network connection 2**], in particular a bus (33), characterized in that configuration data (40) [**working copy configuration data 5**], which can be read out [**loaded**] and evaluated when the controller (30) [**memory programmable controller S1..Sn**] is restarted [**switched on**], are stored [**via central computer R**]. [**Figure 1 and 2; Column 3 line 21-27; Column 4 line 17-26**]

Blumenstock does not explicitly disclose a removeable memory module (39), the memory module (39) being fixed at an installation location of the controller (30) such that it can move.

Kamper discloses a removeable memory module (39), the memory module (39) being fixed at an installation location of the controller (30) such that it can move. [**abstract; column 4 line 14-18**]

Blumenstock and Kamper are analogous art because they are from similar problem solving area of reconfiguration, where one computer transfers data to or from another computer which changes the functional configuration of one of the computers within the network after it has been established.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Kamper's removable storage with Blumenstocks "programmable controller", the motivation being to configure multiple servers easily and efficiently without requiring additional hardware to be incorporated into the thin server without encountering the problems of locating, connecting and securing the thin server. [**Abstract; Column 1 line 62-67**]

Claim 10 is rejected for the reasons set forth hereinabove for claim 4, and further discloses the method characterized in that, during the transfer of the copy of the control program (31) into the main memory (36) of the controller (30) [**memory programmable controller S1-Sn**], the installation program (42) in the main memory (36) [**via steps 7 and 8**] is overwritten [**not performed**]. [**"installation" via steps 7 and 8 are only "called" or performed during failure/malfunction, when no malfunction/failure is present in device a reliable restart is accomplished; Column 2 line 28-44**]

11. Claim 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werner Blumenstock (US Patent 6505084), hereafter Blumenstock, in view of Robert J. Kamper (US Patent 654797), hereafter Kamper as applied to claim 1 and 3, and further in view of Benedikt T Huber et al. (US Patent 6871150), hereafter Huber.

Claim 6 is rejected for the reasons set forth hereinabove for claim 3, however Blumenstock, Kamper, or their combination thereof does not explicitly disclose the method characterized in that the configuration data (40) comprise memory location data with regard to a memory location of the copy of the control program (31), in particular with regard to the memory location of a last copy of the control program (31).

Huber discloses the method characterized in that the configuration data (40) [data unit information] comprise

memory location data with regard to a memory location of the copy of the control program (31), in particular with regard to the memory location of a last copy of the control program (31) **[via flash block marked LATEST]. [Column 25 line 54-Column 26 line 33]**

Blumenstock, Kamper, and Huber are analogous art because they are from similar problem solving area of reconfiguration, where one structure transfers data to or from another structure which changes the functional configuration of one of the structures within the network after it has been established.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the invention of Blumenstock by using Huber's intelligent electronic device; the motivation being to allow upgrades to firmware on a device to include new features or correcting defects in the firmware of Blumenstock's system and thereby reduce cost. **[Column 1 line 33-36]**

Claim 7 is rejected for the reasons set forth hereinabove for claim 6, and further Huber discloses the method characterized in that the transfer of the copy **[via external function module 810; column 18 line 64-Column 19 line 1-12]** of the control program (31) into the main memory (36)

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of the controller (30) is carried out by using the memory location data from the last memory location **[via flash block marked LATEST]. [Column 25 line 54-Column 26 line 33]**

Claim 8 is rejected for the reasons set forth hereinabove for claim 1, however Blumenstock, Kamper, or their combination thereof does not explicitly disclose the method characterized in that the configuration data (40) comprise machine data with regard to a machine for which the control program (31) is provided, and that, when the controller (30) is restarted, before or with the start of the control program (31), a comparison is made between the machine data and machine codes read in from the controlled or monitored production or packaging installation, and in that the control program (31) is executed only when the machine codes match the machine data.

Huber discloses the method characterized in that the configuration data (40) comprise

machine data **[authentication code on the chip 310 contained in device 330]** with regard to a machine for which the control program (31) is provided, **[Column 4 line 46-63]** and that,

when the controller (30) **[intelligent electronic device IED 300]** is restarted, before or with the start of the control program (31), a comparison is made between the machine data and machine codes **[the data in the program flash]** read in from the controlled or monitored production or packaging installation, and in that the control program (31) is executed only when the machine codes match **[are compatible]** the machine data. **[Column 4 line 46-63; Column 12 line 35-63]**

Blumenstock, Kamper, and Huber are analogous art because they are from similar problem solving area of reconfiguration, where one structure transfers data to or from another structure which changes the functional configuration of one of the structures within the network after it has been established.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Huber's intelligent electronic device, with the combination of Kamper and Blumenstock, the motivation being to allow upgrades to firmware on a device to include new features or correcting defects in the firmware code, and to reduce cost. **[Column 1 line 33-36]**

Conclusion

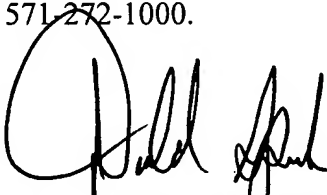
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harold J. Plourde Jr. (US Publication 20030105918), for removable memory system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brooke J. Dews whose telephone number is 571-270-1013. The examiner can normally be reached on M-Th 7:30-5:00, alternate F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on (571) 272-4201. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BO


DONALD SPARKS
SUPERVISORY PATENT EXAMINER